

**Zoning Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**



**AGENDA ITEM NO.: Z-5
AGENDA DATE: Thu 08/04/2005
PAGE: 1 of 1**

SUBJECT: C14-05-0083 - Jack & Johns - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 7402 McNeil Drive (Rattan Creek Watershed) from community commercial-conditional overlay (GR-CO) combining district zoning to community commercial-conditional overlay (GR-CO) combining district zoning in order to change a condition of zoning. Zoning and Platting Commission Recommendation: To grant community commercial-conditional overlay (GR-CO) combining district zoning. Applicant: Jack & Johns, Ltd. (John Baunach). Agent: Bennett Consulting: Jim Bennett. City Staff: Sherri Sirwaitis, 974-3057.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guemsey

ZONING CHANGE REVIEW SHEET

CASE: C14-05-0083

Z.A.P. DATE: July 5, 2005

ADDRESS: 7402 McNeil Drive

OWNER/APPLICANT: Jack & Johns, Ltd. (John Baunach)

AGENT: Jim Bennett Consulting (Jim Bennett)

ZONING FROM: GR-CO **TO:** GR-CO **AREA:** 1.347 acres

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is to grant GR-CO, Community Commercial-Conditional Overlay District, zoning. The conditional overlay would limit the development intensity on the site to less than 1,320 vehicle trips per day. [LDC, 25-6-117]

ZONING AND PLATTING COMMISSION RECOMMENDATION:

7/05/05: Approved staff's recommendation for GR-CO district zoning by consent (7-0, M. Whaley-Hawthorne-absent, T. Rabago-arrived late); J. Martinez-1st, J. Gohil-2nd.

DEPARTMENT COMMENTS:

The property in question is developed with a limited restaurant use (Jack in the Box fast food restaurant). The subject tract was originally zoned GR-CO through zoning case C14-98-0127 (Ordinance #981119-K – Attachment A). This case included the property to the west, which is now developed with a Walgreen's drug store, and subjected both tracts to a 2,500 vehicle per day trip limit. In 2004, the subject tract was rezoned again to include the property to the east and these two tracts were given a trip limit of 1,898 vehicle trips per day (case C14-04-0155: Ordinance #041201-Z-26 – Attachment B). The recommended vehicle trip limit was intended for new uses to be developed on the eastern tract located at the corner of San Felipe Boulevard and McNeil Drive. In an oversight, the existing limited restaurant use on the subject property was not allocated vehicle trips in case C14-04-0155. Therefore, the applicant is requesting to rezone the property again to establish a new trip limitation for the subject tract. Once this site is rezoned the original trip limit of 1,898 will be permitted to be used wholly by the adjacent property to the east and the trips accounted for in case C14-98-0127 will be broken down to allow for 1,320 trips on the this site and will generate 1,180 trips on the remainder of the property to the west, which currently includes the Walgreen's drug store.

The staff recommends the applicant's request for GR-CO zoning for the property in question because the site is located on and takes access to an arterial roadway, McNeil Drive. The GR-CO zoning district would be compatible and consistent with the surrounding uses and would allow for a fair and reasonable use of the site. The rezoning of this tract will correct an error in the vehicle trip allocation for the subject tract, as well as for the properties to the

east and the west of this site. The allocation of 1,320 vehicle trips per day for this site will allow the property to the east to keep the 1,898 vehicle trips from case C14-04-0155. This will permit the tract to the east to be developed with the retail and office uses (GR-CO zoning) permitted in case C14-04-0155.

The applicant agrees with the Zoning & Platting Commission's recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	GR-CO	Fast Food Restaurant
North	RR, I-RR	Multifamily Residences (Apartments)
South	P, SF-3, LI	City of Austin Water Reservoir, Air Conditioning Repair Service
East	MF-2, GR-CO, LI-CO	Townhouses, Undeveloped Tract, Industrial Park (Office/Warehouse)
West	CS-CO, GR-CO	Convenience Storage, Walgreen's Drug Store

AREA STUDY: N/A

TIA: Not required.

WATERSHED: Rattan Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS: N/A

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-04-0155	GR-CO to GR-CO	11/2/04: Approved staff's recommendation of GR-CO zoning by consent (9-0); J. Martinez-1 st , J. Gohil-2 nd .	12/02/04: Approved GR-CO (7-0); all 3 readings
C14-02-0138	I-RR to CS	9/17/02: Approve staff's recommendation of CS-CO zoning with the following conditions: add Equipment Sales and Automotive Rentals as allowed/ permitted uses (7-0)	10/24/02: Granted CS-CO on all 3 readings (6-0, Dunkerley -absent)
C14-02-0132	MF-3 to GR	10/22/02: Approved GR-CO zoning (8-0), with the following conditions: 1) The only permitted GR uses are Auto Sales and Auto Repair; 2) Permit LR Uses, with the exception of the following LR	11/21/02: To grant GR-CO zoning, with conditions and a public restrictive covenant (6-0, Goodman-absent); 1 st reading.

		<p>uses: Service Station; Food Sales; Accessory Off-Site Parking; Restaurant (Drive-In Fast Food); Restaurant (Limited)</p> <p>3) Limit the development intensity to less than 2,000 vehicle trips per day;</p> <p>4) Require that protected trees shall remain undisturbed;</p> <p>5) Require that Compatibility Standards be applied along the eastern property line;</p> <p>6) Require a 25' vegetative buffer along the eastern property line;</p> <p>7) Limit structures to 40' in height with an increase in height according to Compatibility Standards;</p> <p>8) Require that all Auto Maintenance and Repair be contained within a structure;</p> <p>9) Restrict access to San Felipe Boulevard to emergency access only;</p> <p>10) Allow no inoperable vehicle storage on the site;</p> <p>11) Do not allow a parking lot adjacent to the proposed vegetative buffer along the eastern property line.</p>	<p>12/5/02: To grant GR-CO zoning, with conditions that no structural detention or water quality facility shall be allowed within the proposed 25 foot vegetative buffer, grow green standards shall be utilized, and structural parking shall be prohibited (7-0); 2nd reading</p> <p>12/12/02: Approved – Petition withdrawn (7-0); 3rd reading</p>
C14-02-0017	I-RR to GR	2/26/02: Approved staff's rec. of GR-CO zoning by consent (7-0, K. Jackson-absent, A. Adams-off dias)	4/4/02: Approved GR-CO w/ conditions (6-0, Goodman out of room); all 3 readings
C14-01-0080	CS-CO to MF-2	6/26/01: Approved staff rec. of MF-2 by consent (8-0)	12/06/01: Approved MF-2 (7-0); all 3 readings
C14-00-2113	I-RR to GR	7/25/00: Approved staff rec. of GR-CO by consent (7-1, RC-Nay)	8/24/00: Approved GR-CO w/ conditions on all 3 readings (7-0)
C14-99-0016	I-RR to MF-3	2/23/99: Approved staff alternate rec. of MF-3-CO by consent (6-0)	5/20/99: Approved PC rec. of MF-3-CO w/ conditions (7-0); all 3 readings
C14-99-0005	I-RR to MF-3	2/23/99: Approved staff alternate rec. of MF-3-CO by consent (6-0)	5/20/99: Approved PC rec. of MF-#-CO w/ conditions (7-0); all 3 readings

C14-98-0200	I-RR to GR	12/8/98: Approved GR-CO by consent (8-0)	1/7/99: Approved PC rec. of GR-CO w/ conditions (7-0); all 3 readings
C14-98-0127	I-RR to GR	10/13/98: Approved GR-CO (9-0)	11/19/98: Approved PC rec. of GR-CO; all 3 readings
C14-98-0093	I-RR to LI	Approved LI-CO by consent (7-0)	Approved PC rec. of LI-CO w/ conditions (6-0); all 3 readings
C14-98-0003	I-RR to LI	Approved W/LO w/conditions (7-0)	Approved PC rec. of W/LO w/ conditions (6-0); 1 st reading Approved CS-CO w/ conditions (7-0); 2 nd reading Approved CS-CO w/ conditions (7-0); 3 rd reading
C14-95-0131	SF-2 to GO	Approved GO by consent (8-0)	Approved GO (6-0); 1 st reading Approved GO (7-0); 2 nd /3 rd readings

RELATED CASES: SP-04-0438C (Site plan for the subject tract which approved the development of a 2556 square foot fast food restaurant use, along with associated parking and drainage facilities.)

ABUTTING STREETS:

NAME	ROW	PAVEMENT	CLASSIFICATION
McNeil Road	Varies	65'	Arterial
San Felipe	90'	45'	Collector

CITY COUNCIL DATE: August 4, 2005

ACTION:

ORDINANCE READINGS: 1st

2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis

PHONE: 974-3057,
sherri.sirwaitis@ci.austin.tx.us

STAFF RECOMMENDATION

The staff's recommendation is to grant GR-CO, Community Commercial-Conditional Overlay District, zoning. The conditional overlay would limit the development intensity on the site to less than 1,320 vehicle trips per day.

BASIS FOR RECOMMENDATION

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

The Community Commercial (GR) district is the designation for an office or other commercial use that serves neighborhood and community needs and that generally is accessible from major traffic ways.

The property in question is located on and takes access to an arterial roadway, McNeil Drive, and a collector street, San Felipe Boulevard.

2. *The proposed zoning should promote consistency, and orderly planning.*

The GR-CO zoning district would be compatible and consistent with the surrounding uses because there are existing commercial uses to the south, east, and west of the site under consideration. There are currently GR-CO zoned properties to the east and west of this site.

3. *The proposed zoning should allow for a reasonable use of the property.*

The GR-CO zoning district would allow for a fair and reasonable use of the site. The rezoning of the parcels under consideration will allow for commercial/ retail uses to be developed at the corner of McNeil Drive and San Felipe Boulevard without increasing the vehicle trips per day that were intended to be generated by any of the three tracts (Walgreen's site to the west, the property in question – Jack in the Box site, and the undeveloped tract to the east – at the corner of San Felipe Boulevard and McNeil Drive).

GR-CO zoning is appropriate for this location because of the commercial character of the area.

EXISTING CONDITIONS

Site Characteristics

The site in question is currently developed with a Jack in the Box fast food restaurant.

Impervious Cover

The maximum impervious cover allowed by the GR zoning district would be 90%. However, because the Watershed impervious cover is more restrictive than the CS zoning district's allowable impervious cover, the impervious cover on this site would be limited by the watershed ordinance. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% NSA with Transfers</i>
Single-Family Residential (min. lot size 5750 sq. ft.)	45%	50%
One or Two Family Residential (lot size < 5750 sq. ft.)	55%	60%
Multifamily Residential	60%	65%
Commercial	65%	70%

In the Water Quality Transition Zones, impervious cover is limited to 30%.

Note: The most restrictive impervious cover limit applies.

Environmental

The site is located over the North Edward's Aquifer Recharge Zone. It is in the Desired Development Zone. The site is in the Rattan Creek Watershed, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

According to flood plain maps, there is no floodplain within, or adjacent to the project boundary.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

At this time, site-specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

The site is located within the endangered species survey area and must comply with the requirements of Chapter 25-8: Endangered Species in conjunction with subdivision and/or site plan process.

Transportation

No additional right-of-way is needed at this time.

The trip generation under the requested zoning is estimated to be 4,802 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 1,320 vehicle trips per day. [LDC, 25-6-117] This amount of trips is sufficient for the existing development on the site.

Prior to developing the subject tract with a fast food restaurant, this site was zoned with a 2,500 trip limit that included the property to the west, currently a Walgreen's (C14-98-0127). The subject tract was then rezoned in 2004 to include the property to the east and these two tracts were given a trip limit of 1,898 trips per day (C14-04-0155). These trips were intended for the new uses to be developed on the eastern adjacent property. In an oversight the existing use on the subject property that was allocated in the '98 zoning case was not included in the trip generation and therefore the need for the rezoning and new trip limitation on the property.

Capital Metro bus service is not available within 1/4 mile of this property.

Capital Metro bus service is available along US Highway 183.

There are existing sidewalks along McNeil Drive

Existing Street Characteristics:

NAME	ROW	PAVEMENT	CLASSIFICATION
McNeil Drive	90'	Varies	Arterial

Right of Way

The scope of this review is limited to the identification of needs for dedication and/or reservation of right-of-way for funded Capital Improvement Program (C.I.P.) Roadway Construction Projects and Transportation Systems Management (T.S.M.) Projects planned for implementation by the City of Austin. No aspect of the proposed project is being considered or approved with this review other than the need for right-of-way for City projects. There are separate right-of-way dedication and reservation requirements enforced by other Departments and other jurisdictions to secure right-of-way for roadway improvements contained in the Austin Metropolitan Area Roadway Plan, roadway projects

funded by County and State agencies, and for dedication in accordance with the functional classification of the roadway.

We have reviewed the proposed subdivision, site plan, or zoning case and anticipate no additional requirement for right-of-way dedication or reservation for funded C.I.P. or T.S.M. projects at this location.

Water and Wastewater

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, system upgrades, offsite main extension, utility adjustments, and relocation to serve the site and land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City design criteria. The water and wastewater utility construction must be inspected by the City. The landowner must pay the associated City fees.

Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in storm water runoff will be mitigated through on-site storm water detention ponds, or participation in the City of Austin Regional Stormwater Management Program, if available.

Compatibility Standards

There is a site plan for this property (SP-04-0438C), which provides for 2556 square feet of fast food restaurant uses, along with associated parking and drainage facilities.

If redevelopment occurs, the site is subject to compatibility standards. Along the south property line, the following standards apply:

- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.

Additional design regulations will be enforced at the time a site plan is submitted.

ORDINANCE NO. 981119-K

AN ORDINANCE ESTABLISHING INITIAL PERMANENT ZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 13-2 OF THE CITY CODE AS FOLLOWS:

THREE TRACTS OF LAND CONSISTING OF 5.636 ACRES OUT OF THE HENRY RHODES SURVEY NO. 5, ABSTRACT NO. 522, IN WILLIAMSON COUNTY, FROM "I-RR" INTERIM RURAL RESIDENCE DISTRICT TO "GR-CO" COMMUNITY COMMERCIAL DISTRICT-CONDITIONAL OVERLAY COMBINING DISTRICT, LOCALLY KNOWN AS THE PROPERTY LOCATED AT MCNEIL ROAD AND U.S. HIGHWAY 183 NORTH, IN THE CITY OF AUSTIN, WILLIAMSON COUNTY, TEXAS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The Zoning Map established by Chapter 13-2-22 of the City Code is amended to change the base zoning districts from "I-RR" Interim Rural Residence district to "GR-CO" Community Commercial district-Conditional Overlay combining district on the property (the "Property") described in File C14-98-0127, as follows:

Tract 1: 1.728 acre tract of land out of the Henry Rhodes Survey No. 5, Abstract No. 522, in Williamson County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance, and

Tract 2: 2.929 acre tract of land out of the Henry Rhodes Survey No. 5, Abstract No. 522, in Williamson County, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this ordinance, and

Tract 3: 0.979 acre tract of land out of the Henry Rhodes Survey No. 5, Abstract No. 522, in Williamson County, the tract of land being more particularly described by metes and bounds in Exhibit "C" incorporated into this ordinance,

locally known as the property located at McNeil Road and U.S. Highway 183 North, in the City of Austin, Williamson County, Texas, and as more particularly identified in the map attached as Exhibit "D".

PART 2. The Property within the boundaries of the Conditional Overlay combining district established by this ordinance is subject to the following conditions:

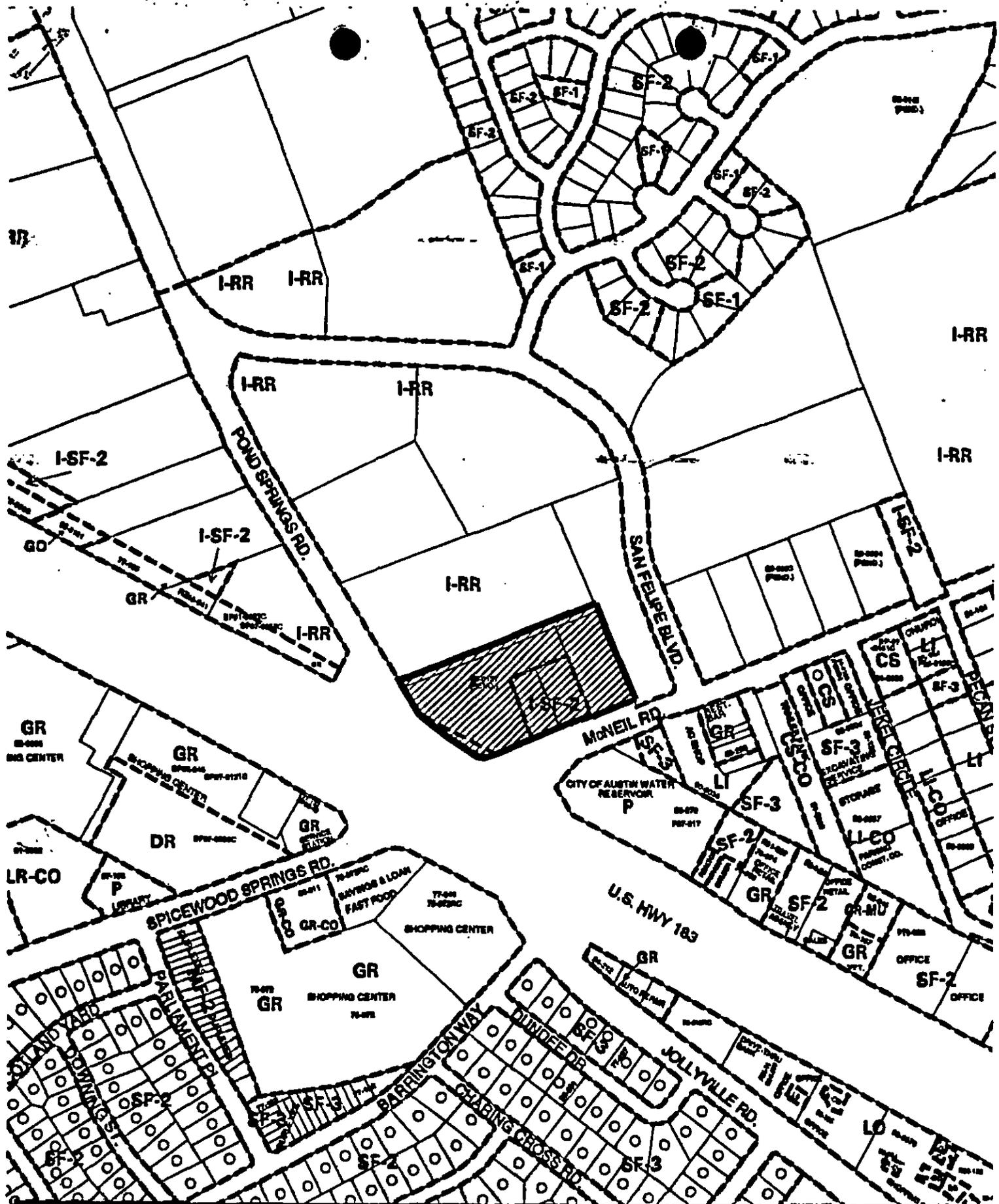
1. The following uses of the Property are prohibited:

Automotive Rentals	Hotel-Motel
Automotive Repair Services	Indoor Entertainment
Automotive Washing (Of Any Type)	Indoor Sports & Recreation
Automotive Sales	Medical Offices (over 5,000 sq.ft)
Business or Trade School	General Retail Sales (General)
Business Support Services	Outdoor Entertainment
Commercial Off-Street Parking	Outdoor Sports & Recreation
Communications Services	Pawn Shop Services
Research Services	Personal Improvement Services
Drop-Off Recycling Collection Facility	Theater
Exterminating Services	Hospital Services (General)
Funeral Services	Residential Treatment

2. Notwithstanding any other provision of the Land Development Code applicable to the Property on the effective date of this ordinance or at the time an application for approval of a site plan or building permit is submitted, no site plan for development of the Property, or any portion of the Property, may be approved or released, and no building permit for construction of a building on the Property, may be issued if the completed development or uses authorized by the proposed site plan or building permit, considered cumulatively with all existing or previously authorized development and uses of the Property, generates traffic exceeding the total traffic generation of 2,500 vehicle trips per day.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the "GR" Community Commercial base district and other applicable requirements of the Land Development Code.

PART 3. The Council waives the requirements of Sections 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.



N
 SUBJECT TRACT 
 PENDING CASE 
 ZONING BOUNDARY 
 CASE MGR: DWAHLGREN
 1" = 400'

CASE #: C14-98-0127
ADDRESS: U.S HWY 183 & MCNEIL
DR
 SUBJECT AREA (acres): 5.636

ZONING EXHIBIT "D"

DATE: 98-10
 INTS: TRC

CITY GRID
 REFERENC
 NUMBER
 H36

ORDINANCE NO. 041202-Z-26

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 7402 MCNEIL DRIVE AND 7318 SAN FELIPE BOULEVARD FROM COMMUNITY COMMERCIAL-CONDITIONAL OVERLAY (GR-CO) COMBINING DISTRICT TO COMMUNITY COMMERCIAL-CONDITIONAL OVERLAY (GR-CO) COMBINING DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from community commercial services-conditional overlay (GR-CO) combining district to community commercial services-conditional overlay (GR-CO) combining district on the property described in Zoning Case No. C14-04-0155, on file at the Neighborhood Planning and Zoning Department, as follows:

Lot 2, Suncor-Greenwood Addition, and Lot 1, San Felipe Green Addition, subdivisions in the City of Austin, Williamson County, according to the map or plat of record in Cabinet Q, Pages 364-365 and Cabinet 1, Pages 215-216, respectively, of the Official Records of Williamson County, (the "Property")

locally known as 7402 McNeil Drive and 7318 San Felipe Boulevard, in the City of Austin, Williamson County, Texas, and generally identified in the map attached as Exhibit "A".

PART 2. The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 1,898 trips per day.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the community commercial (GR) base district and other applicable requirements of the City Code.

PART 3. This ordinance takes effect on December 13, 2004.

PASSED AND APPROVED

December 2, 2004

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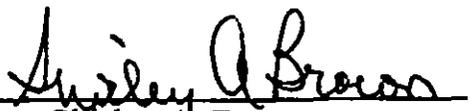
Will Wynn
Mayor

APPROVED:

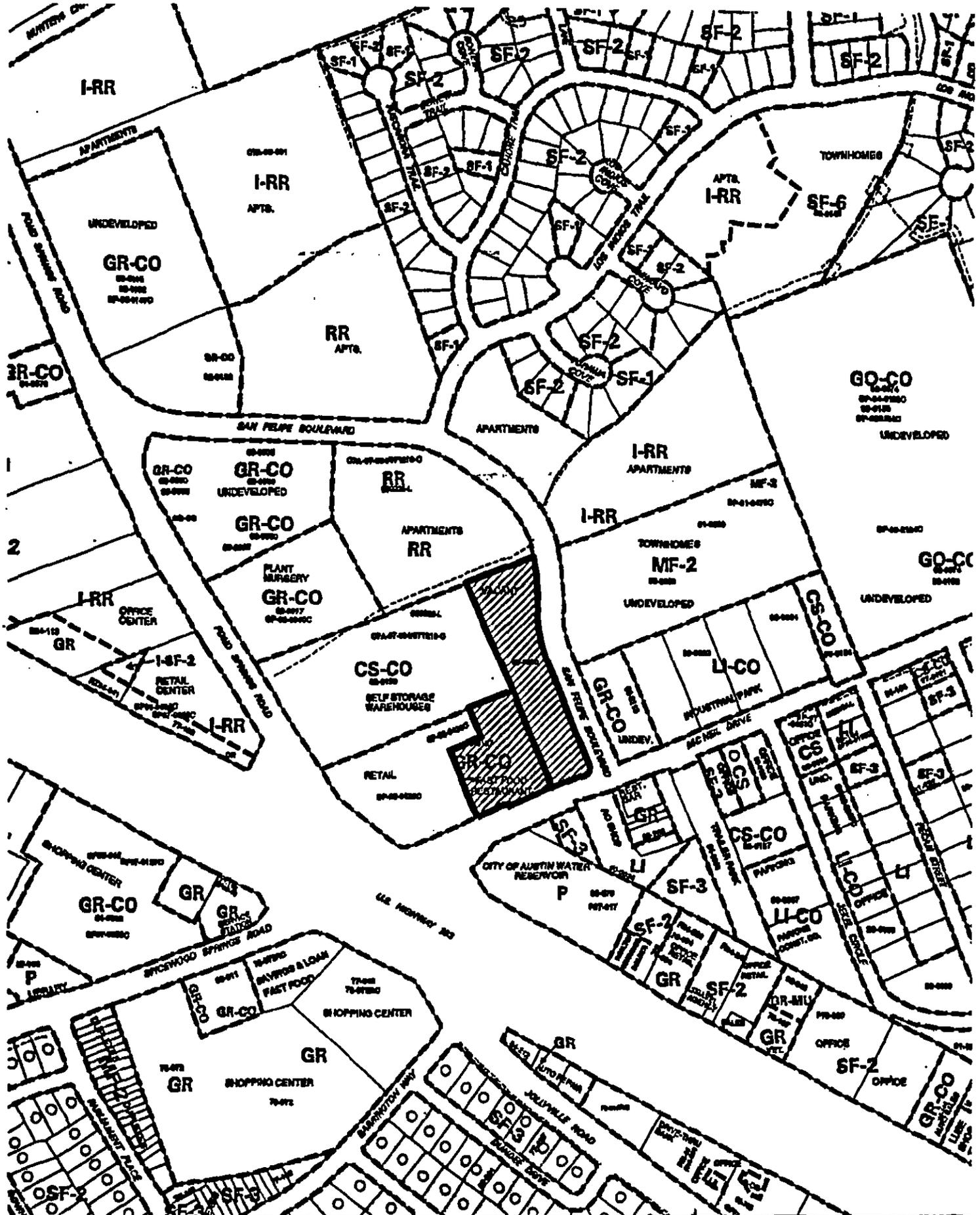


David Allan Smith
City Attorney

ATTEST:



Shirley A. Brown
City Clerk





SUBJECT TRACT 

PENDING CASE 

ZONING BOUNDARY 

CASE MGR: B. GAGER

CASE #: C14-04-0155
ADDRESS: 7402 MCNEIL DR @ SAN FELIPE BLVD
SUBJECT AREA (acres): 4.278

ZONING EXHIBIT A

DATE: 04-10
INTLS: SM

CITY REFERENCE NUMBER
H36

